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September 22, 2016

Andy Slavitt
Acting Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-6074-NC
P.O. Box 8010
Baltimore, MD 21244-8010

RE: Request for Information: Inappropriate Steering of Individuals Eligible for or Receiving Medicare and Medicaid Benefits to Individual Market Plans

Dear Mr. Slavitt:

The National Health Council (NHC) appreciates the opportunity to provide input on your Request for Information (RFI): Inappropriate Steering of Individuals Eligible for or Receiving Medicare and Medicaid Benefits to Individual Market Plans. The NHC urges the administration to consider the impact on people with chronic conditions, particularly as it relates to allowing them to maintain the ability to choose insurance that best meets their health care and budget needs.

The NHC is the only organization that brings together all segments of the health community to provide a united voice for the more than 133 million people with chronic diseases and disabilities and their family caregivers. Made up of more than 100 national health-related organizations and businesses, the NHC's core membership includes the nation's leading patient advocacy organizations, which control its governance and policy-making process. Other members include professional and membership associations, nonprofit organizations with an interest in health, and representatives from the insurance, pharmaceutical, generic drug, medical device, and biotechnology industries.

The NHC welcomes the opportunity to continue expressing our support for premium and cost-sharing assistance programs run by nonprofit organizations. The Affordable Care Act has been transformational for people with chronic conditions, who are now free to purchase meaningful insurance without paying higher premiums than healthy individuals. However, many plans sold in the individual market have been structured with higher cost-sharing obligations than what has traditionally been offered in the employer-sponsored market. This has created even more of a need for financial assistance for people who will typically be required to pay the out-of-pocket maximum in order to receive the care they need.

While we were pleased to see the Administration require insurers to receive financial assistance from government-administered programs, we remain troubled by the fact that other types of assistance have been discouraged, including those by non-profit organizations who serve people with chronic diseases and disabilities. We continue to urge HHS to clarify with insurers that these types of programs are allowable and would welcome guidance and oversight to ensure they are being administered in an ethical fashion.

The NHC supports efforts to ensure that those who are educating patients on insurance purchasing decisions are acting in the best interest of patients. While this RFI is focused on eliminating potential unethical practices, we urge caution to not create policies that will punish both the “bad actors” and organizations that are benefitting patients as part of their organizational mission. The RFI states:

We have heard anecdotal reports that individuals who are eligible for Medicare and/or Medicaid benefits are receiving premium and other cost-sharing assistance from a third party so that the individual can enroll in individual market plans for the provider’s financial benefit.

We caution HHS from developing policies based on anecdotes and understand that this RFI is intended to collect information to make a more informed decision. As you gather this information and look to create policies, it is important that the policies are not developed in a way that will unintentionally harm patients by preventing them from receiving assistance from programs that have appropriate firewalls between the contributions they receive and the financial assistance they provide.

As previously stated, the NHC joins CMS in opposing inappropriate steering of individuals into insurance that does not best meet their needs. We could not agree more with the statement in the RFI that reads:

Enrollment decisions should be made, without influence, by the individual based on their specific circumstances, and health and financial needs.

This type of inappropriate steering can happen in many circumstances. It can be achieved by private payers structuring their plans in ways that encourage high risk patients to enroll in Medicare or Medicaid, skewing those risk pools, just as often as it happens in the opposite direction. The NHC supports patients having the information that they need to make informed decisions and affording them a choice between multiple options. It is a personal decision that should be made by patients and their family.

For many individuals, private insurance may be their best option. Many private insurers offer enhanced benefits over Medicare such as coordination of care services. Higher medal-tiered marketplace plans often have lower cost-sharing requirements as well. Perhaps most importantly, as stated in the RFI, continuity of care is crucial for people with chronic conditions. For those who are currently in private insurance and have established relationships with a provider or a set of providers, maintaining these relationships will greatly benefit them and would be a driving factor for them to remain in their existing insurance program.

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Since there are patients who would benefit from private insurance, it is important that they maintain this choice, which may require financial assistance to pay the premium. There is a role for Navigators and other federally-supported assisters, patient organizations, and providers to educate patients on the many options that they have, and we fully agree that this education should be done free of financial influence. However, we again urge the Administration to be cautious in its approach to remove this inappropriate influence and avoid unintentionally harming those patients who rely on assistance from nonprofit organizations that are act in the best interest of the patients that they serve.

We would like to thank you for this opportunity to share our comments. Please do not hesitate to contact Eric Gascho, our Vice President of Government Affairs, if you or your staff would like to discuss these issues in greater detail. He is reachable by phone at 202-973-0545 or via e-mail at egascho@nhcouncil.org.

Sincerely,

A handwritten signature in black ink, appearing to read "MBoutin", with a long horizontal stroke extending to the right.

Marc Boutin, JD
Chief Executive Officer